

L

ITEM NO.7

COURT NO.5

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).4681/2012

(From the judgement and order dated 27/3/2012 in CRLMP
No. 973/2012, of the HIGH COURT OF RAJASTHAN AT JAIPUR)

SUMAN

Petitioner(s)

VERSUS

STATE OF RAJASHTAN TR. PRINL.SEC.

Respondent(s)

(With appln(s) for stay and of trial and office report)

Date: 22/01/2013 This Petition was called on for mentioning today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM

HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. Neeraj Dutt Gaur,Adv.
Mr. S.S.Nehra,Adv.
Mr. R.K.Gupta,Adv.

For Respondent(s) Dr. Manish Singhvi,AAG.(Raj.)
Mr. Amit Lubhaya,Adv.
Ms. Pragati Neekhra,Adv.(NP)

UPON being mentioned by counsel the Court made the following
O R D E R

Leave granted.

We direct that Bijendra, son of Rambhaj, (who is presently
in custody in the name of Sandeep, son of Rambhaj) shall be
released on bail in connection with regular Criminal Case
No.341/2011 on furnishing bail bond of Rs.30,000/- with two
sureties of the like amount each to the satisfaction of the
court that is in seisin of the case.

The appeal is, accordingly, disposed of.

[SUMAN WADHWA]

[SNEH BALA MEHRA]

COURT MASTER

COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. __185__ OF 2013
(Arising out of SLP(Crl.) No.4681 of 2012)

SUMAN

APPELLANT(S)

VERSUS

STATE OF RAJASTHAN THROUGH
PRINCIPAL SECRETARY HOME

RESPONDENT(S)

O R D E R

Leave granted.

The appellant-Smt. Suman has come to this Court making the

grievance that the person arrested as Sandeep son of Rambhaj, resident of Jindran, District Rohtak, Haryana and who is presently lodged in jail after being remanded in regular Criminal Case No.341 of 2011 pending before the Judicial Magistrate, Pilani, Rajasthan, is not Sandeep but he is actually her husband Bijendra, son of Rambhaj, and he is the elder brother of Sandeep.

The appellant had earlier gone to the High Court of Rajasthan with the same grievance. But her petition filed under Section 482 of the Code of Criminal Procedure was dismissed by the High Court by order dated March 27, 2012. The High Court noted that not only the person arrested by the police represented himself as Sandeep, son of Rambhaj when he was presented before the Magistrate but he also filed bail applications, first before the Magistrate and then before the Sessions Judge, as Sandeep son of Rambhaj.

Aggrieved by the order of the High Court, the appellant filed a special leave petition before this Court from which the present appeal arises.

On hearing counsel for the appellant and on going through the materials on record, we deemed fit to get an enquiry made in the matter and by our order dated July 13, 2012, we directed the Superintendent of Police, Jhunjhunu, Rajasthan, to examine the matter and to submit a report to this Court as regards the true identity of the person arrested in connection with regular Criminal Case No.341/2011 pending before the Judicial Magistrate, Pilani, Rajasthan.

In pursuance of our order, the Superintendent of Police made an enquiry and he has submitted a detailed report dated August 23, 2012. The report confirms the statement of the appellant that the person presently in custody in connection with regular Criminal Case No.341/2011 is Bijendra son of Rambhaj and not the younger brother Sandeep.

We have gone through the report and we have also heard Dr. Manish Singhvi, learned Additional Advocate General appearing for the State of Rajasthan. We have also heard the version of the Investigating Officer of the case who is present today along with the case diary and other materials connected with the case.

The case in which the appellant has been in custody (regular Criminal Case No.341/2011 pending in the Court of Judicial Magistrate, Pilani) arises from F.I.R. No.58 of 2011 dated March 15, 2011 under Sections 406 and 420 of the Penal Code instituted at Police Station Surajgarh, District Jhunjhunu, Rajasthan by one Raghuvir Singh, son of Deep Chand, resident of Village Karora, Tehsil Chirawa, District Jhunjhunu. In the FIR it is alleged that five accused named therein came to the Informant and took away 11 tractors on certain false pretexts. The five accused named in the FIR included one Bijendra alias Kalu son of Azad Singh, caste Jat, resident of Village Nogaon, District Jhajhar, Haryana. It needs to be clarified here that Bijendra alias Kalu named as accused No.1 in the FIR is admittedly another person and different from Bijendra, the husband of the appellant before this Court.

According to the police, in course of investigation, they came to learn that one of the stolen tractors bearing registration No. RJ-18RA-2313 Massey 1035 was standing at the house of Sandeep son of Rambhaj, Village Jindran, District Rohtak. On this information, when they went to the house of Sandeep, they found the tractor actually standing there. One person who was present there identified himself as Sandeep. The other family members who were also present at that time also said that he was Sandeep. The police, accordingly, seized the tractor and arrested the person who had represented himself as Sandeep. In the final report dated May 24, 2011, submitted in the case, the police, accordingly, included Sandeep son of Rambhaj as accused, in addition to the five persons named in the FIR and some other persons from whose custody the other stolen

tractor was recovered.

Dr. Singhvi, submitted that though in light of the report submitted by the Superintendent of Police, Jhunjhunu, it is evident that the person arrested by the Police is not Sandeep, the police is not at fault in arresting the man as he himself said that he was Sandeep. Learned counsel further stated that now the police proposed to amend the final report and make Bijendra as one of the accused in place of Sandeep.

We do not wish to make any comment at this stage in regard to the action proposed by the police. The police may take any action in this connection, in accordance with law.

It, however, stands established that the person in custody is actually Bijendra, son of Rambhaj, and not Sandeep. He was arrested on May 8, 2011 and he has, thus, remained in jail for about a year and a half. There is no material on the record to indicate that he is accused in any other case of a similar nature. The other accused in the case including those who were named in the FIR have been released on bail. In those circumstances, we see no reason not to release Bijendra, son of Rambhaj, at least on bail.

We, accordingly, direct that Bijendra, son of Rambhaj, (who is presently in custody in the name of Sandeep, son of Rambhaj) shall be released on bail in connection with regular Criminal Case No.341/2011 on furnishing bail bond of Rs.30,000/- with two sureties of the like amount each to the satisfaction of the court that is in seisin of the case.

The appeal is, accordingly, disposed of.

.....J.
(Aftab Alam)

.....J.
(Ranjana Prakash Desai)

New Delhi,
January 22, 2013.